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Notes for an Address by
The Honourable Anne McLellan
Minister of Justice and Attorney General of Canada

At a Symposium to Mark the 125th Anniversary of the Supreme Court

Ottawa, ON
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As delivered

Introduction

Thank you for those kind words.

Good afternoon everyone.

It is an honour to have been asked to participate in this event. The presence of so many distinguished guests from within and outside our borders is a tribute to the significance of the 125th anniversary of the creation of the Supreme Court of Canada.

The theme of this Symposium, *The Supreme Court: its Legacy and its Challenges*, will allow you to explore the impact the Supreme Court of Canada has had at home and abroad. Congratulations to Chief Justice McLachlin and the Chair of the Symposium, Mr. Justice Iaccobucci, on bringing together such an impressive array of speakers and some 200 participants, including the Justices of the Supreme Court, chief justices and judges from Canadian courts and other courts around the world, Attorneys General, legal scholars, and -- perhaps most significantly -- law students from faculties across Canada, not only to reflect on the history of the Court, but also to look forward to the role it must play in the new millennium.

As is evident from the range of challenging topics you have chosen to address, this Symposium will help to inform Canadians about the Court's work not only as a national institution but also as one of growing international importance.

It is with this in mind that I offer -- on behalf of the Government of Canada and all Canadians -- my congratulations to justices of the Supreme Court – past and present – on the remarkable contribution they have made to our country and to its legal and democratic traditions:

For their wisdom in the interpretation of our laws; for their integrity in the pursuit of justice and civility; for their courage in the face of controversy and criticism.

Changing realities

The magnitude and importance of the Supreme Court's role in Canada should not be underestimated. Over the past century and a quarter, its judgements have reached into virtually every corner of our lives. The decisions of the Court have influenced our behavior, guided our evolution as a society and helped define us as a nation.

Canada, as a dynamic industrialized state, has grown and changed over the past 125 years -- and so, naturally has its highest court. For the Court, the most dramatic impact has come with the constitutional changes of the past two decades -- most notably, the *Charter of Rights and Freedoms*.

During this time, we have witnessed a heightened public interest in the decisions of the Court. While its adoption came after broad public and political debate that culminated, ultimately, in the Charter receiving widespread support, the application and interpretation of the Charter have been, not surprisingly, the source of vigorous debate. There is no doubt that judicial review under the Charter poses challenges -- both theoretical and practical -- for a society like ours that prides itself on its commitment to democratic principles.

In this regard, this Symposium has a valuable role to play. During the course of your discussions, you will have the opportunity to explore the responsibilities of all the players -- the courts, the executive, Parliament and legislatures and how each responds to public policy challenges.

Finding a way to address complex and, often, divisive questions, which engage historical, jurisprudential and practical considerations, will be part of the challenge we all face in the years ahead. As these issues touch on how citizens relate to each other and to their institutions, and to how we define ourselves as Canadians, it is a challenge that must be met.

Of course, in this era of increased citizen participation, this challenge is not an easy one. As is the case for the political system, a more informed and educated public has higher expectations of its judicial system.

Canadians expect their judges to be *aware* of the ramifications of their decisions and the impact they can have on the economy, on our institutions, on the social fabric of our country, on the workings of our federation and on our understanding of justice.

That our judges are sensitive to such expectations is shown nowhere more clearly than in the words of Chief Justice McLachlin, who -- like several of her colleagues -- has talked to the media about the process of decision-making at the Supreme Court.

"You're not in a position to even start engaging in the process," the chief justice said, "until you've read all the material and understood the legal points [until you] feel you have a grasp of where the heart of the case is [and] *feel you have a grasp of how it will play out in the real world if you go this way or if you go that way*."

Chief Justice, while I do not base my opinions solely on polling data, it seems to me that you and your colleagues are doing something right.

In a recent opinion survey by the Institute for Research on Public Policy, 77% of Canadians indicated their satisfaction with the way our Supreme Court has been working.

Equally interesting was that 73% of the respondents agreed with the statement that the "*Supreme Court can usually be trusted to make decisions that are right for the country as a whole*."

But perhaps more instructive than the raw statistics are some of the conclusions drawn by the researchers. Their analysis revealed that while the continued legitimacy of the Court must never be taken for granted, the public's faith in the courts remains consistently high, even in the face of harsh criticism by media and pundits about specific controversial cases.

To that I would add that the Court itself has taken the initiative to enhance public confidence in the judiciary. For example, over the past 10 years, the Court and the Canadian Judicial Council have introduced numerous innovations designed to further this objective.

A significant change over the past few years has been the Court's proactive approach to engaging the public:

- The Supreme Court has its own website on which its decisions are posted;
- Members of this court regularly make themselves available to participate in a variety of fora, today's symposium being a prime example;
- And, of course, there is the video on judicial independence produced by the Canadian Bar Association in which some members of the Court had a starring role.

At the same time, under the direction of the Chief Justice, the National Judicial Institute has continued its efforts to develop and deliver high-quality judicial education in Canada. As a result, Canada has become a leader in the field of judicial education and training both in Canada and internationally.

In fact, Canadian judicial educators are widely sought after abroad, whether it is for substantive legal training, training in the administration of courts, education on judicial independence, or training in social, gender, and racial issues.

Such efforts have contributed to the high regard in which Canada's judiciary is held -- a key factor in our strength and stability as a nation. This brings to mind one of the most striking of the Court's initiatives in recent years -- what can be called "judicial diplomacy". Thanks largely to the efforts of this Court, Canada has become a world leader in promoting international co-operation with emerging democracies. Many of our Supreme Court justices are travelling to less-developed countries, sharing Canadian insights and experiences that we, as a nation, have accumulated over the past 125 years.

The quality and independence of our courts and judges, combined with a strong commitment to help, have resulted in an increasing number of nations actively seeking our assistance. With an entrenched tradition of bilingualism and bijuralism, Canada is uniquely placed to be of assistance to other countries. Particularly, those countries that are facing the challenge of reconciling different languages, different cultures and different legal systems.

For example, the European Community is seized with the issue of integrating not just the civil law of member countries, but the common law, as well. These factors make our legal system and the judges who are part of it an important resource from which others are eager to learn.

As Minister of Justice, I am grateful to the Supreme Court for the leadership it has shown in helping other countries move towards a strong, independent judiciary. By making links with their international counterparts and sharing their knowledge, Canada's judges have helped in the development of new constitutions and new legal and political institutions around the world.

We in Canada are sometimes guilty of taking for granted the importance of an independent judiciary. This Symposium provides an opportunity to reaffirm our belief in an independent judiciary as a necessary pre-condition to the establishment of, and adherence to, the rule of law.

Judicial independence is a cornerstone in the development of vibrant democratic institutions and traditions and must never be compromised.

Conclusion

As a former teacher of law, I have watched the evolution of the Supreme Court with interest as it strives to keep pace with an ever-changing world.

With the honour of appointment to the Supreme Court of Canada comes the weight of responsibility. A burden of obligation identified by Lord Dufferin, the governor general at the time

of the Court's establishment, when he remarked: "The authority of a court of justice is founded on its own decisions"

"Such a court," his Lordship observed, "is the parent of peace, order and good government; it is the guardian of civil, political and religious liberty."

A lofty objective in 1875; a challenge no less daunting with the passage of time.

And that is why I think that although Canadians may not always agree with individual decisions rendered by the Court, justices of the Supreme Court of Canada are held in the highest esteem. Canadians have faith in your integrity and impartiality.

Over the past 125 years, you and your distinguished predecessors have played a pivotal role in shaping a modern and tolerant society.

Over the past 125 years, you and your distinguished predecessors have defined and advanced the role of the Court in its relationship to Parliament and other legislatures, and to the people of Canada -- you have moulded a more just society.

I have no doubt that you and your successors will continue to confront new challenges with the same diligence and professionalism, for the betterment of our nation, in the next 125 years.

Thank you for the opportunity to celebrate this very special occasion with you.

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